

3. These people are responsible and it takes dedicated and responsible people to go out and vote at the polls

4. These people would probably appreciate some sort of modest safeguard against voter fraud

**Helen Giddings:** There are forms of transportation in place to take the elderly to the polling stations.

**Paul Morreno:** Why is it that if you want clean elections that only Mexican-American or Black-Americans are asking concerned questions about the bill?

*I. Denny says that there some from those groups that are in support of this legislation.*

1. This is an attempt to eliminate minority votes

2. There minority people who are afraid and do not trust governmental entities.

*I. You don't have to go get your picture taken, just show two forms of non-photo id.*

*II. The bill is not there to intimidate minorities from voting*

*III. The bill is there to safeguard people's votes*

**Carter Casteel:** Feels that this bill's intent is not trying to intimidate anybody from voting or showing up to the polls and that it didn't intimidate her when she had to show her identification.

**Mark Strauma:** Current law provides security because it requires id for you to originally become registered to vote.

1. When you sign in to vote, that is like signing an affidavit that swears you are who you say you are

2. That signature at the poll is often used to verify the signature on your voter registration card as a form of security

Members who spoke against House Bill 1706:

- Rep. Anchia
- Rep. Hodge
- Rep. Hodge
- Rep. Veasey
- Rep. Coleman
- Rep. Hochberg

Members who spoke for House Bill 1706:

- Rep. Raymond
- Rep. Mark Strama
- Rep. Escobar
- Rep. Chavez
- Rep. Alonzo
- Rep. Hopson

Amendment 2 proposed by Anchia stated: you can either a) present your voter registration certificate; b) present government-issued ID.

**Individual Arguments:**

Anchia: Concerned that those without proper ID will not be able to vote. Those without proper ID, in the cases Anchia specified, ought not to be penalized for their lack of ID due to circumstances which precipitate scenarios where proper ID may not be possessed (seniors, out-of-state students)

1) He likes the fact that the bill expands the types of ID you can bring to the voting booths. No evidence to support this restriction. People will be disenfranchised--whether they are students, disabled, or elderly.

- Student goes to Harvard, goes back to vote, and shows MASS. License and Harvard ID card--under this bill, that student could not vote regularly, they would have to give a provisional ballot, which only 21% of people's vote was counted. Senior citizen comes to voting booth with certificate which she always brings and is turned away because she doesn't have her driver's license.

**Terri Hodge** during questioning: Speaks for the amendment.

**John Otto**: Question regarding ink stain on the finger. Speaker would support such an amendment.

**Strama**: Would you support ink marker on same day voter registration?

*Denny: If voters changed their driver's license to MASS then they would probably change their voting registration too*

**Strama: Questions whether or not what Denny said holds. Supplies some more difficult exceptions for Denny's claim**

*Denny: There are plenty of forms of ID the voters can choose from*

Anchia before voting: you are voting to enfranchise people; this is help America vote act, not hurt America vote act.

**Thompson: References bills that were filed around the United States to inform him of the sponsor (Republican Party) and that the bills all failed in those states.**

***Amendment adopted***

Amendment 3 proposed by Richard Raymond stated: Proposed Need to make sure students' IDs able to be used. Amendment acceptable to Denny. Amendment adopted.

***Amendment acceptable to Mary Denny***

Amendment 4 proposed by Strama stated: Out of state school IDs are acceptable forms of ID.

***Amendment acceptable to Mary Denny***

***Amendment adopted***

Amendment 5 proposed by Strama stated: any government-issued ID is a valid for of ID.

***Amendment acceptable to Mary Denny.***

***Amendment adopted.***

Amendment 6 proposed by Coleman stated: Strikes provisions which have to do with the use of an ID for provisional voting

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**Individual Arguments and Debate:**

**Coleman:** It isn't required now, and we don't see a need for it. If you walk up w/ a voter registration card, now you have to have a picture ID, and if not, you are moved to provisional voting pool. We are supporting irresponsible voters and not responsible ones.

**Anchia:** Speaking in favor of Coleman's amendment to strike provisional voting ballots.

**Veasey:** if the voter registration cards aren't good enough to use, why should the county pay for the printing up of these?



**Coleman:** To know who you are voting. You are a good voter if you have a driver's license but not if you have a card.

**Strama:** clarifying what went on before.

*Denny: moves to table the amendment. Would take away the provisional ballot aspect of someone who did not show up with the required documentation that is needed to safeguard that right to vote.*

**Coleman:** If you have your voter ID but not registration card, my provisional ballot won't count if I don't present a photo ID to the voting office. It's not as if people keep up with these things on a daily basis. Would this info be mailed out w/ a new voter registration card? TV? Radio? Why does a driver's license take precedence over voter ID?

Response: to show who you are and you are the only passing this ballot.

**Strama** to Coleman before closing: Provisional ballot not denied on the basis of ID qualification. Will vote to table because this amendment is blaming the bill itself.

*Voting to table: amendment tabled.*

Amendment 7 proposed by Escobar stated: ID card which contains the photograph issued by county clerk or administrator will be acceptable ID in voting.

*Acceptable to author.*

*Amendment adopted.*

Amendment 8 proposed by Hochberg stated: When ballot goes to board that looks at provisional ballot, there will be a presumption that the only reason that the ballot is provisional is from a lack of ID then it will move forward as a valid ballot unless the board suspected there was fraud.

*Denny: Can't accept, amendment would make it too easy for voters to come up with acceptable forms from the already broad list of items. Move to table.*

**Hochberg:** You don't have to go to voting board. Don't have to pay for people to verify documents, and then go back to ballots and make them no longer provisional.

**Anchia** speaks in favor of Hochberg's amendment.

*Vote to table*

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*Amendment Tabled*

Amendment 9 proposed by Anchia:

**Anchia:** People's right to vote will be hurt. Instead of starting this immediately, we will allow time for voter education to occur; set this to be effective September 2008.

**Veasey:** spoke in favor of amendment

*Denny: spoke against.*

**Anchia:** speaks against Denny. Says the cost of voter education would be millions and millions.

*Motion to table*

***Amendment Adopted***

Amendment 10 proposed by Veasey stated: Requires election workers to be trained

*Denny: already have training required in law if poll workers want to receive maximum amount of pay. This would be an unfunded mandate on the county*

**Veasey:** Isn't it a fact that most of these provisional ballots don't count? Are you comfortable that those who didn't have photo IDs will go down to the district office?

**Hochberg:** Points out that there is nothing in the bill which **REQUIRES** to district to accept it. Denny admits

**Allen:** Critiquing Denny's support of provisional ballotry.

*Move to table the amendment*

***Amendment tabled***

Amendment 11 proposed by Chavez stated: Requires polling locations to post 24-point font of the list of acceptable voter IDs.

*Amendment acceptable to author.*

***Amendment adopted***

Amendment 12 proposed by Alonzo stated: Any language appropriate for the precinct should be used in posting the new requirements for the voter IDs.

*Amendment acceptable to author*

***Amendment adopted***

Amendment 13 proposed by Hopson stated: If you present a voter's certificate, you are on the list of registered voters in that precinct, and confirm the address on the list is current, and then the election official cannot consider the address on the ID. (In other words, the two addresses can be different).

*Amendment acceptable to author*

***Amendment adopted***

Amendment 14 proposed by Alonzo stated: Bill has to be cleared by the attorney general's office.

*Amendment is acceptable to author.*

*Amendment adopted*

*HB1706 passes engrossment.*

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## Bordering on Fraud: The Imperative to Verify Citizenship of Voters

*"determining whether an individual is a United States citizen is of paramount importance when determining his or her eligibility to vote."*

The animated and well-publicized debates over illegal immigration have been dominated by talk of amnesty, guest-worker programs, and border walls. The sheer number of illegal aliens in our nation warrants the attention of lawmakers. A March 2006 report by the Pew Hispanic Center estimates the "unauthorized migrant" population at 11.5 to 12 million<sup>1</sup>.

However, enforcing existing immigration laws and securing our borders have drowned out another, equally important aspect of the immigration debate: the need to secure our elections against voting by non-citizens.

The most paramount of our democratic rights, the right to vote, is guarded indifferently. Federal and state laws are clear in their intent: only citizens may vote. In practice, however, our polling places are just as porous as are our borders.

In fact, the U.S. Department of State will not accept a voter registration as proof of citizenship when applying for a passport<sup>2</sup>. That healthy skepticism is justified because of significant gaps in Texas election law and enforcement procedures.

### Laws without Meaning

The United States Constitution does not provide an affirmative voting right. However, the 15<sup>th</sup>, 19<sup>th</sup>, 24<sup>th</sup>, and 26<sup>th</sup> Amendments to the Constitution, ratified over the course of more than 100 years, all contain the same phraseology: "the right of citizens of the United State to vote..." The intent of these amendments to the U.S. Constitution is crystal clear and substantiates a view since the founding: only citizens may vote. Similarly, Article 6, Section 2 of the Texas Constitution grants the right to vote only to U.S. citizens who are residents of Texas:

Every person subject to none of the disqualifications provided by Section 1 of this article [under age 18, mentally incompetent, persons convicted of felonies] or by a law enacted under that section who is a citizen of the United States and who is a resident of this State shall be deemed a qualified voter. [emphasis added]

Voting is a right reserved only for U.S. citizens. However, the lack of any explicit statutory mandate and procedural requirement to verify the qualification of voters leaves voting booths wide open to illegal aliens and other non-citizens [and other forms of fraud], stripping constitutional protections of any real value.

Comment [BDC1]:	add sirams no
fraud	quotation
Quote Van de Putte	
Section on counties info request	
MAIL DEF GLE ULA	quotation in
Anticipating Objections	
Comment [BDC2]:	Cite

Texas Conservative Coalition's report

Sections 11.002(1) and (2) of the Texas Election Code list the top two qualifications for voting: age (18 or over) and citizenship (United States). The application to register to vote, available online through the Secretary of State website, begins with the following questions:

Are you a United States Citizen? .....	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Will you be 18 years of age on or before election day? .....	<input type="checkbox"/> Yes	<input type="checkbox"/> No
If you checked 'no' in response to either of the above, do not complete this form.		
Are you interested in serving as an election worker? .....	<input type="checkbox"/> Yes	<input type="checkbox"/> No

Applicants who check "yes" to the citizenship question are taken at their word; there is no verification of citizenship by state or local authorities.

The Office of the Secretary of State, which oversees elections in Texas, confirms what statute and practice allude to: that citizenship verification goes no further than the honor system. In a June 15, 2006 letter the Secretary of State's office states:

...under current Texas voter registration guidelines, there is no formal verification of an applicant's citizenship status... Texas relies on the applicant to provide accurate/truthful information on his or her voter registration application. To the extent that an applicant must sign the application verifying that he or she has met the qualifications to register (one of which is U.S. citizenship) and that he or she has provided accurate/truthful information, the application is processed on those merits<sup>3</sup>.

That admission alone is sufficient basis for legislative action. However, the gaps in election law are even more significant.

Pursuant to the Help America Vote Act (HAVA), the Texas Secretary of State checks voter registration applications against Driver's License and Social Security databases<sup>4</sup>. While such a measure may serve to verify the name and address of an applicant, it does not prevent foreign nationals from registering to vote since both Social Security Numbers (SSN) and Driver's Licenses are available to non-citizens. In fact, the Transportation Code contains an entire section (§521.0305) dedicated to agreements with foreign countries under which the Department of Public Safety (DPS) may issue Driver's Licenses to foreign nationals.

Importantly, the DPS does not record the citizenship status of the Driver's License applicant, meaning that even if an applicant for a Driver's License provides a permanent resident card (green card) or visa as proof of identity, DPS does not record that the applicant is a non-citizen<sup>5</sup>. Therefore, when the Secretary of State cross-checks a voter registration application against DPS Driver's License records, the agency cannot determine the citizenship status of the applicant.

<sup>3</sup>The full Voter Registration Application is reproduced as an Appendix



A non-citizen, however, need not have a SSN or Driver's License in order to vote. The Voter Registration Application continues:

TX Driver's License No. or Personal I.D. No. (Issued by the Department of Public Safety)	
<input type="checkbox"/> Check if you do not have a TX Driver's License, or Personal Identification Number	
If no TX Driver's License or Personal Identification, give last 4 digits of your Social Security Number	
<input type="checkbox"/> Check if you do not have a Social Security Number	X

Note the two boxes labeled "Check if you do not have a..."; even without a Driver's License, Texas Identification Card number, or SSN, an applicant may still be registered to vote. HAVA and the Texas Election Code make special provision for persons without either a Driver's License or SSN so that applicants without either of those forms of identification remain eligible to vote<sup>6</sup>. Driver's Licenses, Texas Identification Cards, and SSN's are all available to non-citizens. However, an illegal alien need not go so far as to obtain one of those identifying documents since federal and state laws make them completely unnecessary for voting.

The list of identification acceptable in lieu of a Driver's License or SSN includes utility bills, bank statements, and pay checks. However, delivery of electricity and gas service for an apartment or home are not predicated on citizenship. Indeed, any person with the financial wherewithal, including an illegal alien, can obtain utility service. Similarly, a foreign national with or without a permanent resident card or visa can work and earn a pay check. The items acceptable as ID in lieu of a Driver's License or SSN have nothing to do with the citizenship status of the applicant.

#### Opening the Door to Fraud

While the citizenship status of registered voters goes unchecked, fraud is taking place. The long history of vote fraud in Texas, most notably the theft of the 1948 race for U.S. Senate, should give any high-minded public servant cause enough to act. But vote fraud in Texas and other states is not relegated to near ancient history. Fraud continues to this day.

For example, investigations into the 1996 election contest in California's 46<sup>th</sup> Congressional District between then-incumbent Congressman Bob Dornan and challenger Loretta Sanchez showed that illegal immigrants were registered and fraudulently voted. The investigation centered on *Hermandad Mexicana Nacional* (Mexican National Brotherhood). The California-based organization noted in its Articles of Incorporation that its primary purpose is "to provide non-profit, low-cost legal services to undocumented immigrant workers and their families and other low-income families<sup>7</sup>."

However, investigations by the U.S. House of Representatives Committee on House Oversight<sup>8</sup> and *The Los Angeles Times*<sup>9</sup> found that the group illegally registered non-citizens, including illegal aliens, to vote in the 1996 Congressional election.

While no indictments were brought, it is possible that illegal aliens swayed the election. Former Representative Dornan lost the election by 979 votes to the challenger, now-Representative Sanchez. The U.S. House Resolution issued at the conclusion of the Congressional investigation of the election notes that the "investigation was repeatedly hindered and delayed by the lack of cooperation by the Department of Justice, the Immigration and Naturalization Service, and key witnesses<sup>10</sup>."

More recently, this problem was illustrated by June 1, 2006 comments made by Francine Busby, the Democratic candidate for California's 50<sup>th</sup> Congressional Seat in San Diego. In response to a question from a Spanish-speaking member of an audience about how he might help her campaign, Busby was taped saying, "Everybody can help, yeah, absolutely, you can all help. You don't need papers for voting, you don't need to be a registered voter to help<sup>11</sup>." Ms. Busby is unfortunately correct: given the lack of verification in the current election system, "papers" are optional. At best, Ms. Busby was encouraging illegal aliens to participate in her campaign; at worst, the Congressional candidate was relaying the failure of our election system to verify citizenship to illegal aliens with the hope that they might vote for her.

The book *Stealing Elections* offers of a shocking example of non-citizens taking advantage of the honor system: eight of the nineteen September 11<sup>th</sup> hijackers registered to vote in either Virginia or Florida<sup>12</sup>.

The integrity of voter rolls in Texas is highly questionable. On June 22, 2006, Harris County Tax Assessor-Collector and Voter Registrar Paul Bettencourt testified before the U.S. House Committee on House Administration that in 2005 he identified at least 35 foreign nationals who either applied for or *received* voter registration cards<sup>13</sup>. Mr. Bettencourt told the Congressional Committee that a Brazilian woman registered, had her registration cancelled, re-registered claiming to be a citizen, and had her registration cancelled again. While registered, *she voted at least four times* in general and primary elections. Since 1992, Mr. Bettencourt's office has cancelled 3,742 registered voters for non-citizenship; 683 of those non-citizenship cancellations have occurred from the year 2000 to present<sup>14</sup>.

The illegal alien population in Texas is estimated to be over 1.6 million<sup>15</sup>, second in size only to the illegal alien population of California. That estimated illegal alien population accounts for over 7% of the total state population of 22,859,968<sup>16</sup>. With such sizeable numbers of illegal aliens residing in the state, the potential impact of them on election outcomes is too serious to ignore. For example, the 2004 election contest between incumbent Talmadge Heflin and challenger Hubert Vo was decided in favor of Vo by only thirty-three votes<sup>17</sup>. Representative Vo represented the 149<sup>th</sup> District in the 79<sup>th</sup> Legislature. Following that election, from December 2004 to June 2006, thirty-four non-citizens were removed from the Harris County voter rolls<sup>18</sup>.